

BOARD OF SELECTMEN

Minutes of the Meeting of 16 May 2007 at 6:00 PM. The meeting took place in the Court Room, Town and County Building, Nantucket, MA 02554. Members of the Board present were Brian Chadwick, Michael Kopko, Allen Reinhard, Patricia Roggeveen and Whiting Willauer. Chairman Willauer called the meeting to order at 6:00 PM.

Announcements. Town Administrator C. Elizabeth Gibson announced that National Nursing Home Week is this week and shared a proclamation regarding excellence in the care of nursing home residents. Chairman Willauer announced Mary Glowacki and John McLaughlin as the Council on Aging's Senior Citizens of the Year.

Public Comment.

Police Chief William Pittman advised that enforcement of timed parking in various downtown areas has begun. He added that ticketing will also occur for improper parking on sidewalks; for parking in wrong directions, too close to intersections, and in handicapped areas without a permit.

Ara Charder spoke regarding a request for approval of a Town tour license and Chairman Willauer indicated that the Board would take the matter under advisement.

Approval of Minutes of 2 May 2007 at 6:00 PM. The Board approved the minutes by unanimous consent. Chairman Willauer abstained from voting as he was absent from the meeting.

Approval of Payroll Warrant for Week Ending 13 May 2007. The Board approved the payroll warrant by unanimous consent.

Approval of Treasury Warrant and Pending Contracts for Week Ending 16 May 2007. The Board approved the treasury warrant and pending contracts by unanimous consent.

Public Hearings.

1. Public Hearing to Consider the Application of Ben Shelton dba Ice Cream Man for a Mobile Food License. Chairman Willauer opened the public hearing. Ben Shelton spoke in favor of the request, noting his route would cover private areas only if requested by neighborhood associations. Maureen Beck clarified a Park and Recreation Commission approval for Dionis Beach. John Johnson reminded the Board that no commercial activity is allowed at the pond area of Miacomet Beach. Beach Management Advisory Committee member Edie Ray shared concerns about litter. Mr. Reinhard noted his support of the applicant's intention to operate a clean business. Board comments followed on ways to address potential litter and the benefit to children of the mobile unit. Chairman Willauer closed the public hearing. Mr. Chadwick moved to approve the application. Mr. Reinhard seconded. So voted unanimously.

2. Public Hearing to Consider the Application of Dreadlocks Holidays dba Pronto, David Buchman, Manager, for a Common Victuallers License for the Premises Located at 10 Broad Street.

Chairman Willauer opened the public hearing. David Buchman spoke in favor. Chairman Willauer mentioned trash being a regular problem on the "strip area" of Broad Street, which Mr. Buchman indicated is managed by individual restaurants. Peter Boyce asked for adherence to the Town lighting bylaw and Mr. Buchman advised that he would make any corrections as necessary.

Chairman Willauer closed the public hearing. Mr. Kopko moved to approve the application. Mr. Chadwick seconded. So voted unanimously.

3. Public Hearing to Consider the Application of Outdoor Power Equipment, Inc, for a Class II Motor Vehicle Dealer's License for the Sale of Boat and Utility Trailers at the Premises Located at 85 Pleasant Street. Chairman Willauer opened the public hearing. Rusty Campbell, General Manager of Outdoor Power Equipment, spoke in favor of the request, noting the state requirement to hold the license in order to acquire dealer plates for boat and utility trailers. He advised that there is no intention to sell new or used vehicles under the license. Chairman Willauer closed the public hearing. Mr. Kopko moved to approve the application for a Class II license. Mr. Reinhard seconded. So voted unanimously.

4. Public Hearing to Consider Sewer User Fee Increases. Chairman Willauer opened the public hearing. Ms. Gibson reviewed the increase in line with the need to fund the fiscal year 2008 sewer enterprise fund budget. Curtis Barnes spoke to allocation of sewer costs. Discussion followed on this. Ms. Gibson made a clarification about the septic waste disposal fee, noting that it would remain the same as it is now and added that the fee increases would take effect July 1, 2007. Chairman Willauer closed the public hearing. Mr. Kopko moved to approve the sewer user fee increases as follow:

- Increase the metered sewer rate from \$2.20 per 100 cubic feet to \$3.10 per 100 cubic feet;
- Increase the unmetered sewer rate from \$76.35/quarter to \$107.67/quarter;
- Increase the monthly service charge from \$18/month to \$25/month.

Mr. Reinhard seconded. So voted unanimously.

5. Public Hearing Regarding the Final Draft of the Nantucket and Madaket Harbors Plan (continued from 4/18/07, 3/21/07 and 2/21/07). Chairman Willauer opened the public hearing. Urban Harbors Institute representative Jack Wiggin provided background information; noting the occurrence of public input; the draft of December 2006; subsequent incorporation of applicable comments with the Harbor Plan Review Committee; and the revised document, which "is now about 5% larger." Mr. Wiggin outlined next steps and advised that any changes to occur in line with state review would follow an amendment process. He reviewed sections added to the January 19, 2007 draft. Marine Superintendent David Fronzuto spoke on the implementation of the plan, suggesting that the ownership should be with one entity, possibly a subset of the Shellfish and Harbor Advisory Board. He noted that the diverse seven-member board could select members of the sub-committee and hold public hearings and then bring recommendations to the Board of Selectmen. Edward Sanford asked for a delay in voting on the document to allow further review by the public and shared questions. Discussion followed on public access, public input in the plan, the road ahead and the thoroughness of the planning process to date. Ms. Roggeveen encouraged prioritization, use of department heads for implementation and the need for implementation to be in line with the Board's goals. Chairman Willauer closed the public hearing. Mr. Kopko moved that

the Board of Selectmen accept the plan dated May 8, 2007 as the final version for its consideration and to submit it to the state. Mr. Reinhard seconded. So voted unanimously.

6. Public Hearing for the Appeal of Neil and Janet Graner of Historic District Commission (HDC) approval of Certificates of Appropriateness No. 50042, 50043, 50044 with regard to the property location of 8 Ishmael Road, Nantucket, MA. Chairman Willauer opened the public hearing. Ms. Roggeveen noted that she had contacted the State Ethics Commission regarding her spousal relationship with HDC Administrator Dirk Roggeveen and was advised that she is able to sit on the HDC appeals. Attorney Susan McCarthy requested a continuation due to a stated need for transcripts of the HDC meetings. HDC Administrator Mark Voigt noted that while it is the Board's decision, access to records and recordings has been provided and a continuance is not necessary. Attorney Keith Yankow added that he had not reviewed the packet submitted to the Board by the owner of 8 Ishmael Road. Attorney Sarah Alger advised that the packet was provided by the homeowner and noted that it is incumbent upon interested parties to seek copies. Discussion followed on the recordings not being a requirement of the process, as these are made for the benefit of minutes preparation. Mr. Roggeveen noted the commission has provided tapes of meetings as requested. Mr. Chadwick moved to continue the matter for thirty days. Mr. Kopko seconded. Discussion followed on the long term nature of the matter and the Board's role to rule whether or not the HDC acted arbitrarily. On the motion to continue, Mr. Kopko and Mr. Chadwick voted in favor. Mr. Reinhard, Ms. Roggeveen and Chairman Willauer voted in opposition.

Ms. McCarthy presented her case on behalf of the Graners. She stated that she was not allowed to speak about the location and design of the home on the lot at a particular HDC meeting. Chairman Willauer confirmed that the Board would consider both appeals concerning 8 Ishmael Road. Ms. Alger indicated that HDC minutes were clear from the January 23, 2007 meeting on the siting and from the minutes of the March 6, 2007 meeting on the design. Mr. Voigt indicated that the commission received no objection to the siting of the building to which the commission had consented so that in terms of protocol, the process was typical. Mr. Roggeveen spoke to what the commission approves in the end, not individual matters via an incremental process. Ms. McCarthy stated her position regarding objection to the house location and size of the structure. Discussion followed on the process which can take into account abutter input, but need not appease abutters in its decisions. Ms. Linda Williams of the HDC spoke regarding the location of the house and the related context of the neighborhood.

Chairman Willauer asked Attorney Yankow, representing the other abutter, to add any different or new information on behalf of the Bridges family. Mr. Yankow stated that he has no objection to combining the appeals. He indicated that the HDC was arbitrary and capricious by disregarding the harmony of the house lines on the house side of the street. Ms. Roggeveen asked if Mr. Yankow mentioned this at the HDC meetings. Mr. Voigt noted that no written objections were received and reviewed the commission process. Chairman Willauer closed the public hearing. Mr. Chadwick moved that certificates of appropriateness issued by the Historic District Commission in the appeal pending before the Board of Selectmen be hereby upheld and the Board of Selectmen finds upon review of the HDC record and after hearing the particulars, that the certificates so issued are not based upon a legally untenable ground and are not arbitrary and capricious or

otherwise erroneous. Mr. Reinhard seconded the motion. Ms. Alger raised a point of order, after which Mr. Chadwick clarified that his motion covers all three certificates under both appeals (#50042, 50043, 50044). On the motion, the Board voted unanimously.

8. Public Hearing for the Appeal of Bridges Family LLC, of Historic District Commission (HDC) approval of Certificates of Appropriateness No. 50042, 50043, 50044 with regard to the property location of 8 Ishmael Road, Nantucket, MA. This public hearing was held in conjunction with the above noted public hearing, which concerns the same certificates of appropriateness.

9. Public Hearing for the Appeal of Timothy D. Ward and Alison Bibbins Ward of Historic District Commission (HDC) approval of Certificate of Appropriateness No. 49884 with regard to the property location of 4 Stone Barn Way, Nantucket, MA. Chairman Willauer opened the public hearing. Chairman Willauer opened the public hearing. Attorney Dennis King of Goulston and Storrs spoke on his clients' behalf, referencing the enabling act of the HDC and the precise question before the Board. He spoke to "the commission's abusive discretion," reviewed the Stone Barn Way homeowners' association guidelines, the applicable decisions by the HDC on the property within the enclave, and the "context of the home." He indicated that the HDC decision on reconfiguration of the front of the house doesn't comply with HDC guidelines.

Mr. Voigt clarified the subject of the decision under appeal and the HDC's jurisdictional boundaries. Discussion followed on the increase in house height with regard to a building code requirement due to the flood zone location, which architect Steven Blashfield clarified.

Attorney Steve Cohen, speaking for the homeowners, indicated that the decision was not arbitrary or capricious. He noted that the only item before the Board involves an 18-inch increase in height, noting that notice was effected at a homeowners association meeting. Mr. King responded to the appropriateness of raising the height of the building. Chairman Willauer closed the public hearing. Mr. Chadwick moved that certificate of appropriateness # 49884 issued by the Historic District Commission in the appeal pending before the Board of Selectmen be hereby upheld and the Board of Selectmen finds upon review of the HDC record and after hearing the particulars, that the certificate so issued is not based upon a legally untenable ground and is not arbitrary and capricious or otherwise erroneous. Mr. Kopko seconded. So voted unanimously.

Town Administrator's Report. None.

Selectmen's Report/Comment.

1. Action on Fall Special Town Meeting (continued from May 9, 2007). Ms. Roggeveen provided arguments for focusing on an annual town meeting rather than holding meetings twice a year, suggested the Board be cognizant of these and recommended that harbor articles be addressed at the Annual Town Meeting. Mr. Roggeveen spoke further to the strategic decisions regarding scheduling. Discussion followed on whether or not the Planning Board wants a fall town meeting, staff workloads, Finance Committee workloads, compelling reasons for holding a fall meeting, and the pending summer season. Mr. Kopko asked the Board to wait to make a decision, asking for the Marine Superintendent and the Planning Director to be present. Discussion followed on the

structural problem on how the governmental body convenes and the need for a clear explanation of specific items that are time critical. Town Counsel Paul DeRensis stated that the harbor articles probably wouldn't be ready for a fall 2007 Special Town Meeting. The Board consented to invite the staff members to the next meeting to discuss the need for a fall town meeting.

2. Other Comments.

Mr. Reinhard expressed appreciation for recent work done by the Department of Public Works on line painting, including crosswalks.

Ms. Roggeveen shared a notice on the Memorial Day Parade on Sunday, May 27, 2007.

Chairman Willauer noted that prohibition of parking on certain streets of the parade route would not be feasible.

The meeting adjourned at 9:30 PM.

Approved the 6th day of June 2007.